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EXAMINER

NEGRON, ISMAEL

ART UNIT PAPER NUMBER

2875

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,443

Applicant(s)

MAGLICA, ANTHONY

Examiner

Ismael Negron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 66-68 is/are pending in the application.
- 4a) Of the above claim(s) 24-65 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-23 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 66-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on April 14, 2003 has been entered. Claims 1-23 and 66- 68 are still pending in this application, with claims 1, 15 and 66 being independent.

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 24, 2003 have been disapproved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Drawings

2. The proposed drawing correction filed on April 24, 2003 has been disapproved because it is not in the form of a pen-and-ink sketch showing changes in red ink or with the changes otherwise highlighted. See MPEP § 608.02(v).

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "**38**" has been used to designate both "*spring member*" (page 12, line 18) and "*spring*" (page 12, line 22). A "spring" is merely one of the plurality of different members included by the recitation "spring member" and as such further limits the range of different member that could be used in the claimed invention.

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In addition, note reference character "41", used to designate "*lower insulator receptacle*" (page 13, line 10) and "*lower insulator*" (page 13, line 15). The designation "lower insulator receptacle" refers to a receptacle used for receiving the "lower insulator", and cannot be the same as that which it receives.

The applicant is advised that the reference characters must be properly applied, with no single reference character being used for two different parts or for a given part and a modification of such part. See MPEP §608.01(g).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 11-14, 66 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlessel (U.S. Pat. 3,622,832) and Maglica (U.S. Pat. 5,260,858).

Schlessel discloses an illumination device having:

- **a lamp bulb**, Figure 1, reference number 2;
- **the lamp bulb being a bi-pin lamp bulb**, Figure 4;

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- **a lamp base**, Figure 1, reference number 4;
- **the lamp bulb being secured to the lamp base**, Figure 1;
- **the lamp bulb having a pair of electrodes**, Figure 1, reference number 9;
- **the lamp bulb also having a filament**, Figure 1, reference number 3;
- **the filament extending between the electrodes**, column 2, lines 44-49;
- **the lamp bulb being secure to the base with an adhesive**, Figure 3, reference number 27;
- **the adhesive being a ceramic**, column 3, lines 46-49; and
- **the lamp bulb being secure to the base so that the center of the filament is aligned with a predetermined axis**, column 2, lines 54-64.

Schlessel discloses all the limitations of the claims, except:

- a reflector;
- the reflector having a central opening;
- ~~a lamp-base receiver;~~
- the lamp base receiver being adjacent the central opening of the reflector;
- the lamp bulb extending through the central opening; and

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- the lamp base receiver being adapted to align the lamp base with a principal axis of a reflector.

Maglica discloses an illumination device having:

- **a lamp bulb**, Figure 2, reference number 60;
- **a reflector**, Figure 1, reference number 20;
- **the reflector having a central opening**, Figure 1;
- **a lamp base receiver**, Figure 2, reference number 58;
- **the lamp base receiver being adjacent the central opening of the reflector**, Figure 1;
- **the lamp bulb extending through the central opening**, Figure 1;and
- **the lamp base receiver being adapted to align the lamp base with a principal axis of a reflector**, column 4, lines 7-30.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the teachings of Schlessel and Maglica, to obtain an illumination device with improved lamp/reflector alignment means, as per the teachings of Schlessel (column 2, lines 54-63) and Maglica (column 1, lines 31-39).

Regarding the filament being align so that its center is displace 0.001 inches or less from the predetermined axis, one of ordinary skill in the art at the time the claimed invention was made, would have being motivated to locate the filament as close as possible to the predetermined axis, as the advantages of locating the filament

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substantially in such axis are old and well known in the art. Evidence of such old and well-known status can be found in both Schlessel and Maglica.

In addition, it would have being obvious to one of ordinary skill in the art at the time the claimed invention was made, to locate the filament within the claimed range of the predetermined axis, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only ordinary skill in the art. *In re Aller*, 105 USPQ

5. Claims 4-10, 15-23 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlessel (U.S. Pat. 3,622,832) and Maglica (U.S. Pat. 5,260,858).

The teachings of Schlessel and Maglica (as applied in Section 4 of the instant Office Action) disclose, or suggest in combination, all of the features of the claimed invention, except:

- the lamp base including a solid of revolution;
- the solid of revolution having two holes extending through the base in the direction of the axis of revolution;
- the predetermined axis being the axis of revolution;
- the lamp base generally comprising a frustum of a truncated right circular cone;
- the sidewall of the cone being tapered at an angle of between 5° and 60°, with respect to the axis of revolution; and

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- the sidewall of the cone being tapered at an angle of between 5° and 20°, with respect to the axis of revolution.

It would have been an obvious matter of design choice to use the claimed lamp base structure in the illumination device of Schlessel and Maglica, since the applicant has not disclosed that such specific structure solves any problem or is for a particular reason. It appears that the claimed invention would perform equally well with lamp base structure as suggested by Schlessel and Maglica.

Allowable Subject Matter

6. Claims 15-23 are allowed.

7. The following is an examiner's statement of reasons for allowance:

Applicant teaches a lamp alignment structure including a lamp base having a conical frustum shape with two holes extending in a direction parallel to the base axis. The holes extending from one surface to the opposite surface of the base. No prior art was found teaching individually, or suggesting in combination, all of the features of the applicants' invention.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

9. Applicant's arguments filed April 14, 2003 have been fully considered but they are not persuasive.

Regarding the Examiner's rejection of claim 1 under 35 U.S.C. 103(a) as unpatentable over Schlessel (U.S. Pat. 3,622,832) and Maglica (U.S. Pat. 5,260,858), the applicant argues that the cited combination of references fail to disclose all the features of the claimed invention, specifically a filament of the lamp bulb being aligned with a predetermined axis extending through the base, and a base removably seated in a bore provided in a base receiver for aligning the predetermined axis with the principal axis of a reflector.

In response to applicant's argument that the references failed to disclosed all features of the claimed invention, the applicant is advised that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In this case, Schlessel disclose a lamp bulb structure for removably positioning the lamp filament effectively centered with the axis of a projection system (column 2, lines 54-64) for achieving maximum illumination efficiency. Maglica discloses a flashlight having a light source and a reflector, such light source being removably coupled with the reflector (Figure 2). Maglica testifies to the criticality of the light source/reflector

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alignment (column 1, lines 33-39). Combining the teachings of Schlessel and Maglica to further improve Maglica's light source/reflector alignment would have flown naturally to one of ordinary skill in the art. Such adaptation would have required, as evident by the disclosure of Maglica, that the filament of the light bulb be aligned with the axis of the reflector of Maglica, such axis passing through the base of the light source, as claimed.

10. Regarding the Examiner's rejection of claim 66 under 35 U.S.C. 103(a) as unpatentable over Schlessel (U.S. Pat. 3,622,832) and Maglica (U.S. Pat. 5,260,858), the applicant argues that the cited combination of references fail to disclose all the features of the claimed invention, specifically the center of the filament of the lamp bulb being aligned with a predetermined axis of the base.

In response to applicant's argument that the references failed to disclose the center of the filament of the lamp bulb being aligned with a predetermined axis (emphasis added) of the base, the applicant is advised that claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974). In this case, while Schlessel intention was to align the center of the filament with the axis of the projection system, such axis being substantially perpendicular to the base axis, it is a fact that such filament is also centered on the base axis, as evidenced by Figures 3 and 4. In addition, even if the structure of Schlessel did not disclose the cited limitation, the rejection is not based on Schlessel alone, but on the combined teachings of Schlessel and Maglica. Incorporating the advantages of Schlessel into the structure of Maglica would have produced a flashlight

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having a light projection system in which the axis of the reflector was aligned with the axis of the lamp base.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (703) 308-6086. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (703) 305-4939. The facsimile machine number for the Art Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.



ALAN CARIASO
PRIMARY EXAMINER

Inr

June 10, 2003